

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THURL H. LIGHT, II

Plaintiff,

v.

COUNTY OF FRESNO, FRESNO
COUNTY JAIL, FRESNO COUNTY
SHERIFF DEPARTMENT, D. SOTASO,

Defendants.

1:24-cv-01508-HBK (PC)

ORDER DIRECTING CLERK TO SEND
PLEADING TO APPROPRIATE
INSTITUTIONAL OFFICIAL

(Doc. No. 6)

Plaintiff, who is confined in the Fresno County Jail, initiated this action by filing a pro se civil rights complaint on December 11, 2024. (Doc. No. 1). The court has not yet screened the complaint pursuant to 28 U.S.C. § 1915A, so no defendant has been served. On January 3, 2025, Plaintiff filed a two-page pleading titled “motion for complaint for temporary restraining order.” (Doc. No. 6, “Pleading”). Therein, Plaintiff s claims his life is in danger. (*Id.* at 1). The court construes the Pleading of a notice of danger instead of a motion for a temporary restraining order.¹

¹ A motion’s “nomenclature is not controlling.” *Miller v. Transamerican Press, Inc.*, 709 F.2d 524, 527 (9th Cir. 1983) (quoting *Sea Ranch Ass’n v. Cal. Coastal Zone Conservation Comm’ns*, 537 F.2d 1058, 1061 (9th Cir. 1976)). Instead, the court is to “construe [the motion], however styled, to be the type proper for the relief requested.” *Id.* Here, the Pleading does not seek any specific relief and is facially deficient in that it fails to procedurally comply with Fed. R. Civ. P. 65(b) and Local Rule 231(a)-(b). Further no defendant has been served in this action. A federal court does not have personal jurisdiction over the parties and subject matter jurisdiction over the claim if no defendant has been served in the action. *Zepeda*, 753 F.2d at 727 (9th Cir. 1985) (if no defendant has been served with process, then injunctive relief is premature).

1 The court regularly receives pleadings or notices from confined persons who are proceeding
2 *pro se* in actions before the court which contain allegations of suicide, danger of death, or imminent
3 serious physical harm to themselves or to others. In an abundance of caution, the court expedites
4 notice of such allegations to the appropriate state or federal officials for whatever action those
5 officials deem appropriate.

6 Accordingly, it is ORDERED:

7 1. The Clerk shall forward a copy of Plaintiff's Pleading (Doc. No. 6) filed on January 3,
8 2025 which contains allegations of danger of harm by a confined person to the appropriate officials
9 at Fresno County Jail for handling as officials deem appropriate.

10 2. The Clerk shall indicate on the docket the name of the official(s) to whom notice was
11 provided.

12 3. This Order is not a ruling on the allegations or relief requested in the notice or pleading
13 or the merits of allegations in this case but is provided for informational purposes only. No response
14 is required from officials to the Order.

15 4. The Clerk shall correct the docket to reflect the court construes the Pleading (Doc.
16 No. 6) as a "notice of harm" and terminate it as a pending motion.

17
18 Dated: January 16, 2025


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE